

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants,

and

KARLA PEREZ, *et al.*,

Defendant-Intervenors.

Case No. 1:18-cv-00068

**DEFENDANTS' NOTICE OF FILING
IN A RELATED CASE [ECF No. 576]**

The Federal Defendants hereby submit this notice attaching certain filings made in *Batalla-Vidal v. Mayorkas*, No. 16-CV-4756 (E.D.N.Y.), a case involving the Deferred Action for Childhood Arrivals (DACA) policy. The Federal Defendants are not requesting that this Court take any action. Notice is provided merely to inform this Court of a related proceeding that involves litigation regarding this Court's injunction in the present case.

On July 16, 2021, this Court granted Plaintiffs' Motion for Summary Judgment in part, ECF No. 575, and issued a permanent injunction prohibiting the Federal Defendants from administering the DACA policy. ECF No. 576. The Court stayed portions of its permanent injunction, permitting the Federal Defendants to continue to grant renewal requests for DACA recipients who obtained that status before the date of the injunction, and with respect to DACA applications "not already granted by the date of this order," permitting the Department of

Homeland Security to “continue to accept applications” but not to “grant these applications.” ECF 576 at 4. The Court’s judgment and injunction are currently on appeal in the Fifth Circuit.

On April 25, 2022, Plaintiffs in *Batalla-Vidal*, representing a class consisting of all individuals who are or will be *prima facie* eligible for DACA under the terms of the 2012 Napolitano Memorandum, requested that the U.S. District Court for the Eastern District of New York modify its December 2020 order to provide additional relief to class members who submitted DACA applications after that court’s December 2020 order and whose applications were not granted by the time of this Court’s July 2021 permanent injunction and remain pending.

Specifically, as reflected in the attached motion (Exhibit A), the *Batalla-Vidal* plaintiffs are seeking an order requiring DHS¹ to provide the following relief:

- 1) “interim relief for First-Time Applicants,” consisting “[a]t a minimum” of “an opportunity to work, as well as forbearance from deportation,” to be issued “on a case-by-case basis to pending DACA applicants able to make a *prima facie* showing of eligibility,” and lasting “until USCIS makes a final decision on the underlying DACA application,” Modification Motion at 12;
- 2) “resume[d] processing [of] pending first-time DACA applications and requests for [employment-authorization documents] up until the point of granting DACA,” including capturing and processing biometric information from applicants, *id.* at 18; and

¹ The defendants in the *Batalla Vidal* litigation are the Secretary of Homeland Security, the Deputy Director for Policy of USCIS, and the President of the United States, all sued in their official capacities, along with USCIS and DHS.

- 3) treating DACA applications from “applicants whose previous grants of DACA expired more than a year prior to the renewal request” as applications for renewal rather than as first-time applications, *id.* at 20.

On April 20, 2022, plaintiffs in *State of New York v. Biden*, No. 17-cv-5228 (E.D.N.Y.), a case related to *Batalla-Vidal*, submitted a brief in support of the motion (Exhibit B).

The United States Government defendants in *Batalla-Vidal* opposed the plaintiffs’ requests for relief in *Batalla Vidal*, including on the basis that they would conflict with this Court’s injunction. The defendants’ response to the plaintiffs’ Motion for Modification, submitted on May 27, 2022, is attached here as Exhibit C.

The *Batalla Vidal* plaintiffs submitted their reply in support on June 6, 2022 (Exhibit D). Per Judge Garaufis’s individual rules, these submissions were all filed together on the *Batalla-Vidal* docket on June 6, 2022. A hearing on the motion has not yet been scheduled.

Dated: June 7, 2022

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

AUGUST E. FLENTJE
Special Counsel
Civil Division

WILLIAM C. PEACHEY
Director, Office of Immigration Litigation
District Court Section

Respectfully submitted,

JEFFREY S. ROBINS
Attorney-in-Charge
Deputy Director

/s/ James J. Walker
JAMES J. WALKER
Senior Litigation Counsel
U.S. Department of Justice
Civil Division
Office of Immigration Litigation
District Court Section
P.O. Box 868, Ben Franklin Station
Washington, D.C. 20044
Phone: (202) 532-4468
Fax: (202) 305-7000
Email: james.walker3@usdoj.gov

Attorneys for Federal Defendants